IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 776 OF 2002

Adam Minya Ahmedial & Ors. ..Appellants

versus

Abdul Razzaq Zainuddin & 59 ors ..Respondents

And

Charity Commissioner Maharashtra

State Mumbai ..Respondents

Ms. Eventa A. Gonsalves for the Appellants.

Ms. S. M. Poddar for Respondent No.1 to 61.

Mr. B. R. Patil, AGP for the State.

CORAM : D. G. DESHPANDE,J.

DATE : 29TH MARCH,2005

ORAL ORDER :

1. By consent, the Decree dated 13.3.2002 passed by Judge Dholakia is modified as under:

2. By consent, the parties agree to amend the Scheme as follows:

(i) The Charity Commissioner Mumbai shall

prepare the Voters List of the Bakar Kasji jamat Mosques Trust registered under the Public Trust Act under Registration B-592(hereinafter referred to as "Trust") comprising of Members of the Bombay Bakar Kasai Jamat (Regd. No.B 1525) (including Byculla) and Bandra Bakar Kasai Jamat (Regd. No. MAH/219/2001) and the parties agree that the person or persons whose names shall be included in the voters list shall in addition to other qualification shall be a permanent resident within the limits from Colaba and Bandra (East and West) on the date of the voters list.

(ii) In order to facilitate the Charity Commissioner to prepare the Voters List of the said Trust and in order to identify the members of the Bombay and Bandra Bakar Kasai Jamat.

(iii) The Charity Commissioner shall include in the voters list of the said Trust only those members holding the identity cards issued by the President of the Trust and confirmed by Charity Commissioner.

(iv) The Charity Commissioner, shall

finalize the Voters list of the said Trust as expeditiously as possible and on the finalisation of the list of Voters, the Charity Commissioner shall file such list in this Court and a true certified copy shall be issued to the said Trust and Presidents of respective Jamats (including Byculla area) as set out in clause 2(i) hereinabove.

3. Five Trustees i.e. three trustees from Bandra and two trustees from Bombay (including Byculla area), and 10 members of the Advisory Committee will be elected by the process of Election of the voters for the said Trust.

4. The tenure of the trustees and the members of the Advisory Committee shall be for a period of three years from the date of the first Election.

5. The election of the Trustees and the Advisory Committee shall be conducted every three years by secret ballot. The Election process of the Trustees shall start from 15th April, end after every 3 years and in any case should be complete in the last week of May. Newly elected trustees shall take charge on 31st May of the said year. Outgoing board of trustees shall get Accounts of the Trust Audited before the completion of the said Election.

6. The Charity Commissioner may frame such rules and regulations with the approval of the General Body for the Election of Trustees as may be considered necessary from time to time.

7. The Board of Trustees shall maintain two separate registers of members of Jamat of Bombay as well as of Bandra and same shall be open to the members for inspection on making application for the same.

8. Delete the word **"British"** from clause no.7 of the Scheme and add the words **"for remaining period tenure of the Board of Trustees"** at the end of the clause No.7.

9. Existing Clause No.11 of the Scheme to remain as it is.

10. Delete the existing clause 22 of the Scheme and add in its place the following New clause 22.

(i) All members whose names appear on Voters list shall form a General Body.

(ii) The General body meeting shall be held after every financial year within the period

of three months.

(iii) At least 15 days notice in advance shall be given to the members by giving public notice in at least One Urdu News paper having vide circulation in Mumbai City.

(iv) The Audited Accounts of the Trust shall be submitted in the General Body by the Trustees and should be passed in the Annual General Body Meeting shall be submitted to the Charity Commissioner every year.

11. The Identity Cards shall be issued by the Jamats (including Byculla area) through their respective Presidents and confirmed by the Charity Commissioner. Such identity cards shall be issued to members of 18 years of age and above. Two separate voters lists for respective two Jamats (including Byculla area) will be prepared.

. Appeal disposed of accordingly.

(D.G. DESHPANDE, J.)